

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

**FILED**  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF TEXAS

SEP 16 2010

BY DAVID J. MALAND, CLERK  
DEPUTY

Case No. 4:09cv181

RODULFO L. RIVERA, M.D.

Plaintiff,

vs.

ROBERTA M. KALAFUT, D.O., In Her  
Individual Capacity Only; et al,

Defendants.

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**MEMORANDUM ADOPTING REPORT AND  
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On June 15, 2010, the report of the Magistrate Judge was entered containing proposed findings of fact and recommendations that Defendants' Motions to Dismiss Plaintiff's Original Complaint (Dkts. 96 & 112) be GRANTED as to the assertion of Defendants' qualified immunity defenses, DENIED as MOOT as to all other grounds raised, that Defendant Cathleen Parsley's Motion to Dismiss (Dkt. 103) be GRANTED, and that Plaintiff's claims against Defendants be dismissed with prejudice.

The court, having made a *de novo* review of the objections raised by Plaintiff and the Magistrate Judge's recent order denying Plaintiff leave to amend his complaint (*see* Dkt. 133), is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections of Plaintiffs are without merit. Therefore, the court hereby adopts the findings and conclusions of

the Magistrate Judge as the findings and conclusions of this court.

Defendants' Motions to Dismiss Plaintiff's Original Complaint (Dkts. 96 & 112) ~~is~~ *are* GRANTED as to the assertion of Defendants' qualified immunity defenses and DENIED as MOOT as to all other grounds raised, Defendant Cathleen Parsley's Motion to Dismiss (Dkt. 103) is GRANTED, and Plaintiff's claims against all Defendants are dismissed with prejudice.

**IT IS SO ORDERED.**

SIGNED this 15<sup>th</sup> day of Sept, 2010.

A handwritten signature in black ink that reads "Richard A. Schell". The signature is written in a cursive, flowing style.

RICHARD A. SCHELL  
UNITED STATES DISTRICT JUDGE